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**FIDH regrets the conclusion of the 3 years analysis of the
Office of the Prosecutor of the ICC regarding the situation in
Gaza**

<http://www.fidh.org/FIDH-regrets-the-conclusion-of-the>

FIDH - Worldwide Human Rights Movement

FIDH regrets the decision of the ICC Prosecutor not to proceed with its preliminary examination in the Occupied Palestinian Territories, after more than 3 years of analysis

"This decision, taken after more than 3 years of analysis is a huge deception for the victims in Palestine who feel once again that the justice ignore them, as tribunals in Israel refuse to effectively render justice for these crimes, as FIDH and its member organisations have regularly documented [1]", said Souhayr Belhassen, President of FIDH.

The Prosecutor establishes that he did not have the authority to determine whether Palestine was a "state" for the purposes of the Rome Statute, but that it was for the "relevant bodies" at the United Nations or the ICC Assembly of States Parties to make that legal determination. He concluded that it "could in the future consider allegations of crimes committed in Palestine, should competent organs of the United Nations or eventually the Assembly of States Parties resolve the legal issue relevant to an assessment of Article 12(3) of the Rome Statute or should the Security Council, in accordance with article 13(b), make a referral providing jurisdiction."

"We do not understand why the OTP took so long to reach this conclusion and did not submit this issue on jurisdiction to the Judges, according to article 19.3. of the Rome Statute" said Patrick Baudouin, honorary president of FIDH and coordinator of the FIDH Litigation action group. **"We urge the Prosecutor to engage in a clear communication strategy in Israel and the Occupied Territories, in order not to diminish the gravity of the crimes committed there and to transmit to States parties the relevant documentation in its possession"**, he added.

Context

On 22 January 2009 the Palestinian Authority submitted a declaration under Article 12(3) of the Rome Statute (allowing non States parties to the Statute to recognize the jurisdiction of the International Criminal Court) 'for the purpose of identifying, prosecuting and judging the authors and accomplices of acts committed on the territory of Palestine since 1 July 2002.

This declaration was made in the context of the 'Operation Cast Lead', Israel's military assault on Gaza which lasted from 27 December 2008 until 18 January 2009, during which one 1409 Palestinians were killed and hundreds of other were injured.

As part of its preliminary examination the OTP received 388 communications from NGOs and other sources. A special meeting was organised by the Office of the Prosecutor in September 2010, where the debate was divided into three opinions : the first one consider that the Palestinian National Authority could not be regarded as a 'State' and therefore the declaration was without effects; the second one that Palestine is recognized as a State by many States and many institutions and therefore this qualification was sufficient to ; the third one argued that Palestinian statehood was irrelevant to this analysis, arguing that criminal jurisdiction within Palestine rests with the PNA which can therefore transfer such jurisdiction to the ICC through an ad hoc declaration under Article 12(3) of the Statute.

[1] <http://www.fidh.org/Shielded-from-a...>